

[Unapproved and Subject to Change]
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
MINUTES OF MEETING, Public Session

December 13, 2007

Call To Order: Chairman Ross Johnson called the meeting to order at 10:00 a.m., at 428 J Street, Eighth Floor, Sacramento, California. Chairman Johnson, Commissioners Timothy A. Hodson, Gene Huguenin, Bob Leidigh and Ray Remy were present.

Item #1 - Public Comment. This portion of the meeting is reserved for comment on items not on the agenda. Under the Bagley-Keene Open Meeting Act, the Commission cannot act on items raised during public comment, but may respond briefly to statements made or questions posed, request clarification, or refer the item to staff.

There was no public comment.

Item #2 - Approval of the November 14, 2007, Commission meeting minutes. Moved by Commissioner Remy and seconded by Commissioner Leidigh to approve the November 14, 2007, Commission meeting minutes as submitted.
AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item #3 - Approval of the November 27, 2007, Commission special meeting minutes. Moved by Commissioner Remy and seconded by Commissioner Leidigh to approve the November 27, 2007, Commission meeting minutes as submitted.
AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item #4 - In the Matter of Janet Nguyen and Friends of Janet Nguyen 2007 Committee, FPPC No. 07/378. Staff: Commission Counsel Galena West. Respondent Janet Nguyen was a successful candidate for the Orange County Board of Supervisors in the February 6, 2007 election and Respondent Friends of Janet Nguyen 2007 Committee was Respondent Nguyen's controlled committee. In this joint stipulation with the California Office of the Attorney General, Respondents' violations of the Political Reform Act include failing to deposit contributions raised into a single, designated campaign bank account, in violation of Section 85201, subdivision (c) of the Government Code (2 counts). Respondents' violations of the Orange County Campaign Reform Ordinance include receiving campaign contributions in excess of the local limits, in violation of Section 1-6-5, subdivision (a) of the Orange County Campaign Reform Ordinance (3 counts); failing to timely return three campaign contributions received in excess of the local limits, in violation of Section 1-6-30 of the Orange County Campaign Reform Ordinance (1 count); and failing to timely file notice of the return of three campaign contributions received in excess of the local limits, in violation of Section 1-6-30 of the Orange County Campaign Reform Ordinance (1 count).

Moved by Commissioner Remy and seconded by Commissioner Leidigh to approve a Stipulation, Decision and Order finding a violation of seven counts and a \$5,000 monetary penalty (\$2,500 for violations of the Political Reform Act and \$2,500 for violations of the Orange County Campaign Reform Ordinance.)

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item #5 - Failure to Timely File Major Donor Campaign Statements. Chief Investigator Sue Straine and Political Reform Consultant Sandy Johnson. The following entity has entered into a stipulation for failing to file a major donor campaign statement that was due during calendar year 2007, in violation of Government Code Section 84200:

- a. In the Matter of E & B Natural Resources, FPPC No. 07/0238.** E & B Natural Resources of Bakersfield, failed to timely file a semi-annual campaign statement disclosing contributions totaling \$128,625 in 2006 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Leidigh to approve a Stipulation, Decision and Order finding a violation of one count and a \$1,686.25 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item #6 - Failure to Timely File Late Contribution Reports – Proactive Program. Chief Investigator Sue Straine and Political Reform Consultant Sandy Johnson. The following persons/entities have entered into a stipulation for failure to file a late contribution report in 2006 in violation of Government Code Section 84203:

- a. In the Matter of Robert J. Hildebrand, FPPC No. 07/0549.** Robert J. Hildebrand of Beverly Hills, failed to timely disclose a late contribution totaling \$11,200 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Leidigh to approve a Stipulation, Decision and Order finding a violation of one count and a \$1,680 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- b. In the Matter of Jeanne Pritzker, FPPC No. 07/0578.** Jeanne Pritzker of Los Angeles, failed to timely disclose a late contribution totaling \$22,300 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Leidigh to approve a Stipulation, Decision and Order finding a violation of one count and a \$3,345 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- c. **In the Matter of 7-Eleven, Inc., FPPC No. 07/0579.** 7-Eleven, Inc. of Dallas, Texas, failed to timely disclose a late contribution totaling \$10,000 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Leidigh to approve a Stipulation, Decision and Order finding a violation of one count and a \$1,500 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- d. **In the Matter of Lisa Pevaroff, FPPC No. 07/0619.** Lisa Pevaroff of New York, New York, failed to timely disclose a late contribution totaling \$10,000 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Leidigh to approve a Stipulation, Decision and Order finding a violation of one count and a \$1,500 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- e. **In the Matter of Rajesh Navar, FPPC No. 07/0641.** Rajesh Navar of Los Altos Hills, failed to timely disclose a late contribution totaling \$10,000 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Leidigh to approve a Stipulation, Decision and Order finding a violation of one count and a \$1,500 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item #7 - Adoption of Amendments to Regulation 18531.61 – Net Debt. Staff: Senior Commission Counsel Hyla P. Wagner and General Counsel Scott Hallabrin. The proposed amendments to Regulation 18531.61 provide that a committee may raise funds after the election to pay for the costs of monitoring the ballot count or conducting a recount, and that a committee must use its funds on hand after the election to pay outstanding debt.

Moved by Commissioner Remy and seconded by Commissioner Huguenin to adopt the amendments as proposed by staff.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item #8 - Prenotice Discussion of Proposed Regulation 18421.7 and Amendment to Regulation 18401 – Reporting an Expenditure for a Gift, a Meal, or Out-of-State Travel. Staff: Commission Counsel Brian G. Lau and General Counsel Scott Hallabrin. Staff proposes Regulation 18421.7 requiring a candidate controlled committee to provide facts demonstrating a political, legislative, or governmental purpose when reporting expenditures for gifts, meals, or out-of-state travel. Additionally, staff proposes a related

amendment to Regulation 18401 requiring a candidate controlled committee to maintain specified records in connection with the information required under Regulation 18421.7.

Chairman Johnson asked if anyone in the audience had any comments.

Tony Miller, Chief of the Political Reform Division, with the Secretary of State's Office, commented that some of the regulatory community had concerns about the logistics of being able to report expenditures electronically or posting them on CalAccess, but that if this regulation is adopted by the Commission, the Secretary of State's office will do whatever is necessary to implement the Commission's decision.

Moved by Chairman Johnson and seconded by Commissioner Hodson to approve publication of notice of the proposed amendments.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item #9 - Emergency Adoption of Proposed Regulation 18413 – Multi-Purpose Non-Profit Corporations. Staff: Senior Commission Counsel Lawrence T. Woodlock and General Counsel Scott Hallabrin. Staff proposes emergency adoption of Regulation 18413 to modify campaign registration and reporting obligations of certain multi-purpose non-profit corporations, tailoring those rules as required by the United States Court of Appeals for the Ninth Circuit in its recently published opinion in *California ProLife Council, Inc. v. Randolph, et al.*

Chairman Johnson announced that before proceeding further on this item, staff had indicated it was necessary for the Commission to make certain findings before adopting an emergency regulation.

Moved by Chairman Johnson and seconded by Commissioner Remy that the Commission adopt and incorporate into the record the fourteen (14) findings in support of the emergency regulation as enumerated in General Counsel Hallabrin's memorandum dated December 11, 2007, which was provided to the public and the Commissioners.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Chairman Johnson asked if anyone in the audience had any comments in support or in opposition to this item to please come forward. He requested that persons offering comments identify themselves for the record and indicate if they were representing anyone.

Three attorneys made comments with several points opposing the emergency regulation: Anthony Caso, Chuck Bell, and Lance Olson, who each stated he was speaking on his own behalf.

After discussion between the Commissioners, Commissioner Leidigh asked General Counsel Hallabrin, in view of the references made to litigation by the speakers, if it

would be appropriate to discuss the matter's connection to the *California ProLife Council* case in closed session. Mr. Hallabrin responded affirmatively, and Chairman Johnson put the matter over to discuss the case in closed session. He indicated the Commission would resume consideration of the regulation when it reconvened in open session.

10. Legislative Report. Staff: Government Affairs Director Whitney Barazoto.
No report was submitted.

11. Litigation Report. Staff: General Counsel Scott Hallabrin, as submitted.

12. Executive Director's Report. Staff: Executive Director Michael B. Salerno, as submitted.

13. Chairman's Report. Chairman Ross Johnson.

Chairman Johnson reported that the FPPC webpage now reflects behested payments from the present to the creation of the behested payments law (1997), and the payments are added to the webpage as the behested payments reports are received.

Chairman Johnson announced that Bob Tribe is retiring at the end of the month. The Chairman thanked him for all his courtesy and help, and said after the first of the year he wants to present Bob with a formal recognition for his magnificent job of more than 30 years with the FPPC.

Chairman Johnson adjourned open session at 11:00 a.m. and stated the Commission would immediately convene in closed session.

The Commission reconvened in open session at 11:45 a.m. Chairman Johnson advised that no reportable action was taken in closed session, and the Commission immediately returned to Agenda Item 9.

Commissioner Huguenin moved and Commissioner Hodson seconded adoption of emergency Regulation 18413 as proposed by staff.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Moved by Commissioner Huguenin and seconded by Commissioner Leidigh to take less than the 120 days allowed by law and have a permanent regulation prepared for adoption at the March 2008 Commission meeting; and for the Commission staff to schedule an Interested Persons Meeting for discussion of the regulation at the earliest practicable date in January 2008, which will be posted on the FPPC website and notice provided.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Chairman Johnson adjourned the meeting at 11:55 a.m.

Dated: December 20, 2007

Respectfully submitted,

Beth Manwaring
Commission Assistant

Approved by:

Ross Johnson
Chairman